

Authorized Deduction under the Payment Wages, Act

A revolutionary Labor Welfare Legislation was passed in 1936 to protect workers from exploitation which is known that the **Payment of Wages, Act 1936**. The Act permits deductions which can be made from the wages payable to a worker.

Sec. 7(3) of this Act says that the total amount of deduction which may be made under subsection (2) in any wage period from the wages of any employed person shall not exceed –

(1) In case where such deductions are wholly or partly made for payment to the co-operative societies, 75% of such a wages, and

(2) In other cases, 50% of such wages.

The following will not be considered deductions.

It is significant any loss of wages the resulting from the following imposition shall not be deemed to be deductions, namely -

(i) The withholding of increment or promotion (including stoppage of increment at efficiency bar)

(ii) The reduction to lower post or time scale or to a lower stage in scale; or

(iii) The suspension, provided by the rules framed by the employer for the imposition of such penalty are in conformity with the rules framed by the State Government in this behalf.

In other words the following are not referred to as the deduction.--:

Stoppage of the promotion of the worker.

Stoppage of the inducement lack of overall performance by using employee.

The demotion of the worker.

Suspension of the worker.

Authorized deductions :

Following is the list of such deductions which the Act allows and this list is exhaustive so no other deduction from wages is permissible.

(1)-**Fines** Sec.7(2) (a) of the Act authorizes deduction by way of fines while sec.(8) says the rules for the imposition of such fines.

Sec. 8 -"No fine shall be imposed on any employed person save in respect of such acts and omissions on his part, as the employee has specified by notice.

The following points will be necessary while determining the fine.

No fine shall be imposed on any employed person until he has been given an opportunity of showing cause against the fine or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

The total amount of fine which may be imposed in any one wage-period on any employed person shall not exceed an amount equal to three per cent of the wages payable to him in respect of that wage-period.

No fine shall be imposed on any employed person who is under the age of 15 years.

No fine imposed on any employed person shall be recovered from him by installments or after the expiry of 60 days from the day on which it was imposed.

Every fine shall be Deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

All fines and all acknowledge thereof will be recorded in a register to be kept by the individual answerable for the payment of wages under section 3 in such structure as might be prescribed, and all such acknowledge will be applied uniquely to such purposes useful to the people employed in the factory or foundation as are affirmed by the recommended authority.

(2)- Deductions for **absence from duty** -

Sec. 7 (2) read with Section 9 of the act provides the circumstances under which and the extent to which deduction can be made. It is only when the employer has right to make deduction, resort should be had to the act to ascertain the extent to which the deduction can be made. Such a deduction can be made only on account of the absence of an employed person from the place or places, where according to the terms of employment he is required to work, if he, though present in person refused to carry out his work in pursuance of a stay in strike or any other cause which is not reasonable in the circumstances. Similarly, tool down strike without any Just Cause amounts to absence from duty. In **SURENDRANATHAN NAIR VS SENIOR DIVISIONAL RLY.** some of the railway employees applied for casual leave to participate in an agitation against railway administration. The leave was refused but the employees participated in the agitation. The management deducted the wages treating the period of leave applied for as absence from duty. The important question before the court was whether the deduction made by the Railways was authorized or not. Court held that the leave rules to the railway are contained in the railway established code and the rule made thereunder. The code derives its authority from Article 309 of the constitution and the rules are made under the delegated power. These rules have general application to all non-gazatted railway servants. **Rejection of leave under such circumstances was legal and proper.** Absence from duty, especially for the purpose of participation in an agitation against his management is unauthorized. **An unauthorized absentee has no right to compel payment of wages for the period of unauthorized absence.**

(3)-Deductions for **damage to or loss of goods** .Sec.(10)

The following deduction for recovery of losses may be made from the wages of an employed person in accordance with the provisions of this Act.

According to Sec.7(2) (c) If any money or goods entrusted to the employee is lost by his negligence or default, the employer is entitled to deduct such loss.

1. Sec.7 (2) (m) of the act authorize deduction for recovery of loses sustained by a railway administration on account of acceptance by the employed person of counterfeit or mutilated or forged currency notes.
2. Sec. 7 (2) (n) authorizes deduction sustained on account of failure of employed person to invoice, bill or appropriate charges due to administration.

3. Sec. 7(2) (o) authorizes deduction sustained on account of any rebates or refunds incorrectly granted where such loss is directly attributable to his neglect or default.

(4)-Deductions for **services rendered** -sec.(11)

According to Sec.7(2) (d) The Act authorizes the employer to make deductions for house accommodation supplied by the government or any housing board set up under any law for the time being in force (whether the government or the board is the employer or not) or any other authority engaged in the business of subsidising house-accommodation which may be specified in this behalf by the State Government by notification in the Official Gazette.

(5)-Deductions for **amenities services** –

Sec.7(2)(e) The deductions may also be made for such amenities and services supplied by the employer as the State Government or the authorized person in this behalf authorities the employer to provide amenities or services. The word services for the above purpose does not include the supply of tools and raw material required for the purpose of employment.

(6)-Deductions for **recovery of advances** -

(explained in Section 12)

Sec.7(2)(f) The Act authorizes the employer to make deductions for the advances made by him. (including advances for traveling allowance or conveyance allowance)

(7) Deductions for **recovery of loans** –

Sec. 7(2)(ff) The employer may make deduction for the recovery of loans together with interest made from any fund constituted for the welfare of labor in accordance with the rules approved by the State Government in this regard.

(8)-Deductions for recovery of loans granted for **house-building** -

Sec.7(2)(fff) the deductions are also permitted to be made for the recovery of loans and interest granted for house-building or other purposes in accordance with the rules approved by the State Government.

(9)-Deductions of **income-tax payable** by the employed person-

Sec. 7(2)(g) of the said Act permits an employer to make this deduction subject to the provisions of the Income Tax Act.

(10)-Sec.7(2)(h) of the Act permits an employer to effect any **deduction by the order of a Court.**

An important consideration should be taken. Is there any contradiction between Sec. 7(2) and Sec. 7(2)(h)? Sec. 7(2) clearly says “**no other deductions can be made by the employer while section 7(2) (h) it clearly allows deduction which are required to be made by order of a court or other authority competent to made such deduction.** In the case of MUNICIPAL COR. VS N.L ABHYANKAR the court made it clear that there is no contradiction between the two and said that Industrial court or the Labour Court are competent to make an order for diduction.At this point the brief facts of another case Manager, Rajapalayam Mills Ltd. should be observed.The employee resigned from the services while he was in service he took some loan for house building.While he was in service he took some loan for house building. The employer adjusted the salary which was due to him with the amount to

be paid for the house building. In the claim by the employee regarding the salary was rejected as he ceased to be an employee due to his resignation.

The court held that in such a case it is open to the employer to adjust the entire amount due on account of wage under Section 7(4) of the Payment of Wages Act.

(11)- Deductions for **provident fund**

Sec.7(2)(i) The employer should deduct provident fund contributions from his employee's salary and shall also make contributions from his share, which is mandatory.

(12)- Sec.7(2)(j) authorizes the deductions for payments to **Co-operative societies.**

(13)- Section 7(2)(k) Such deductions may be made with the written authorization of the person employed for payment of any premium on his life insurance policy to the Life Insurance Corporation Act of India established under the Life Insurance Corporation 1956 (31 of 1956)

(14)-Deduction for the **Welfare Fund -**

Sec. 7 (2) (kk) Deductions made with the written authorization of the employed person for the payment of his contribution to any fund constituted by the employer or a trade union registered under the Trade Union act 1926 (16 of 1926) for the welfare of the employed persons or the members of their families or both and approved by the State Government or any officer specified by it in this behalf during the continuance of such approval.

(14)- Deduction for **Trade Union Membership Fees**

Sec.7(2) (kkk) Deductions made with the written authorization of the employed person for payment of the fees payable by him for the membership of any trade union registered under the Trade Union Act 1926 (16 of 1926).

(15)- Deductions for **Fidelity Guarantee Bonds**

Sec.7(2)(l) permits deduction for payment of insurance premia on Fidelity Guarantee Bonds.

Note. Sometimes the answer to a question becomes long in the exam, then the answer can be written in the following way to mention and as far as possible the relevant section should also be mentioned.

For Examp.

Other permissible deductions include, income-tax payable by the employee, deductions required to be made by an order of court or other competent authority and deductions for payment of insurance premium on fidelity guarantee bonds. With a written authorisation of the employee, the employer can also deduct contributions to any labour welfare fund constituted by the employer or registered trade union, fees for membership of any registered trade union and contributions to the Prime Minister's National Relief Fund.

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